

Message Text

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70

ACTION DLOS-06

INFO OCT-01 IO-13 ISO-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10

ACDA-07 AGR-05 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00

CIEP-01 COME-00 DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05

FMC-01 TRSE-00 H-02 INR-07 INT-05 JUSE-00 L-03

NSAE-00 NSC-05 NSF-01 OES-06 OMB-01 PA-01 PM-04

PRS-01 SP-02 SS-15 USIA-06 SAL-01 FEA-01 /158 W

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P 171926Z AUG 76

FM USMISSION USUN NY

TO SECSTATE WASHDC PRIORITY 8699

C O N F I D E N T I A L USUN 3273

FROM: LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJ: LOS: MARINE SCIENTIFIC RESEARCH YANKOV CONSULTATIONS

1. THIRD DAY OF DISCUSSIONS IN INFORMAL YANKOV NEGOTIATING GROUP CENTERED UPON DISCUSSION OF ARTICLE 60--THE CONSENT ARTICLE FOR RESEARCH IN THE ECONOMIC ZONE. THE U.S. OPENED DEBATE AND REITERATED THAT ARTICLE WAS UNACCEPTABLE AND DETAILED CONCESSIONS MADE IN THE COURSE OF NEGOTIATIONS OVER PAST FIVE YEARS. U.S. STATEMENT STRESSED PROPOSAL MADE BY SECRETARY KISSINGER IN APRIL AND SAID THE TIME HAS COME FOR OTHERS TO MAKE CONCESSIONS. THE NETHERLANDS INTERVENED STATING ARTICLE 60 WAS UNACCEPTABLE BECAUSE IT RUNS COUNTER TO THEIR VIEWS THAT ECONOMIC ZONE IS HIGH SEAS AND SUPPORTED GENEVA SNT.

2. MEXICO WHILE STRESSING SUPPORT OF CONSENT REGIME MADE FOLLOWING PROPOSAL:

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"1. MARINE SCIENTIFIC RESEARCH ACTIVITIES IN THE ECONOMIC ZONE OR ON THE CONTINENTAL SHELF SHALL BE PROMOTED AND FACILITATED BY THE COASTAL STATE. TO THIS END, THE COASTAL STATE SHALL GRANT ITS CONSENT FOR MARINE SCIENTIFIC RESEARCH ACTIVITIES IN ITS ECONOMIC ZONE OR ON ITS CONTINENTAL SHELF.

2. THE COASTAL STATE MAY WITHHOLD ITS CONSENT FOR MARINE SCIENTIFIC RESEARCH ACTIVITIES IN THE ECONOMIC ZONE OR ON THE CONTINENTAL SHELF IF THAT PROJECT:" AND THEN WOULD FOLLOW CATEGORIES A-D FROM PARAGRAPH 2 OF ARTICLE 60.

3. FRG INTERVENED TO STATE THAT ARTICLE 60 WAS UNACCEPTABLE AND SUGGESTED MERGING PARAGRAPHS 1 AND 2 AS FOLLOWS:

"MARINE SCIENTIFIC RESEARCH ACTIVITIES IN THE ECONOMIC ZONE OR ON THE CONTINENTAL SHELF REQUIRE THE CONSENT OF THE COASTAL STATE IF THE PROJECT:"

AND THEN FRG WOULD LIST ITEMS A-D OF EXISTING ARTICLE 60 NOTING THE NECESSITY TO EXAMINE IN DETAIL THE EXACT WORDING OF THOSE CATEGORIES.

4. BRAZIL INTERVENED STATING THAT THEIR WILLINGNESS TO SEPARATE RESEARCH REGIME IN ECONOMIC ZONE AND IN TERRITORIAL SEA WAS A MAJOR CONCESSION FOR THEM. BRAZIL WENT ON TO STATE A WILLINGNESS TO ACCEPT QUALIFICATIONS ON THE EXERCISE OF CONSENT UNDER A CONSENT REGIME IN THE ECONOMIC ZONE AND STRESSED AGAIN THE FOLLOWING PROPOSAL:

"1. COASTAL STATES IN THE EXERCISE OF THEIR EXCLUSIVE JURISDICTION HAVE THE RIGHT TO REGULATE, AUTHORIZE AND CONDUCT MARINE SCIENTIFIC RESEARCH IN THEIR ECONOMIC ZONES ON THEIR CONTINENTAL SHELF.

2. MARINE SCIENTIFIC RESEARCH ACTIVITIES IN THE ECONOMIC ZONE AND ON THE CONTINENTAL SHELF SHALL BE CONDUCTED WITH THE EXPRESS CONSENT OF THE COASTAL STATE
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AND IN ACCORDANCE WITH THE RELEVANT PROVISION OF THE CONVENTION.

3. COASTAL STATES MAY WITHHOLD THEIR CONSENT TO THE CONDUCT OF A MARINE SCIENTIFIC RESEARCH PROJECT IN THE ECONOMIC ZONE AND ON THE CONTINENTAL SHELF IF THAT PROJECT BEGIN UNDERLINE INTER ALIA; END UNDERLINE

A) BEARS UPON THE LIVING OR NON-LIVING
RESOURCES OF THESE AREAS;

B) INVOLVES DRILLING OR THE USE OF EXPLOSIVES;

C) INTERFERES WITH ANY ACTIVITY PERFORMED BY
THE COASTAL STATE IN THESE AREAS.

D) EXISTING TEXT OF ARTICLE 60 (2) (D) PLUS THE
FOLLOWING "OR ANY OTHER TYPE OF INSTALLATION OR
STRUCTURE"

E) IS NOT CONDUCTED FOR EXCLUSIVELY PEACEFUL
PURPOSES.

PERU SUPPORTED BRAZILIAN SUGGESTION OF A SINGLE ARTICLE
FOR TERRITORIAL SEA, ECONOMIC ZONE AND CONTINENTAL SHELF.
PERU CALLED MARINE SCIENTIFIC RESEARCH QUESTION OF
CRITICAL IMPORTANCE BECAUSE THE REGIME FOR MARINE
SCIENTIFIC RESEARCH MAY WELL DEFINE THE LEGAL STATUS
OF THE ECONOMIC ZONE. CONSENT FOR RESEARCH IN THE
ECONOMIC ZONE, PERU PROPOSED, SHOULD NOT BE UNREASON-
ABLY DENIED.

5. TANZANIA SUPPORTED BRAZILIAN PROPOSAL BUT
SUGGESTED DELETION OF INTER ALIA AND RETENTION OF
"ECONOMIC" IN SUBPARA (C) AND SAID THAT WAS AS FAR
AS HE COULD GO. TANZANIA EXPRESSED "MISGIVINGS"
ABOUT MEXICAN PROPOSAL. SOMALIA SUPPORTED
BRAZILIAN PROPOSAL BUT WOULD RETAIN "INTER ALIA" AND
STRESSED IMPORTANCE OF SUBPARA (E). KENYA INTERVENED
STATING ECONOMIC ZONE WILL HAVE CERTAIN ELEMENTS OF
HIGH SEAS AND CERTAIN ELEMENTS OF TERRITORIAL SEA
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CONCLUDING THAT MARINE SCIENTIFIC RESEARCH SHOULD BE
A TERRITORIAL SEA ELEMENT. KENYA WENT ON TO ATTACK
ARTICLE 64 DEALING WITH TACIT CONSENT. ON ARTICLE 60,
KENYA AGREED THAT IN CERTAIN CASES THE COASTAL STATE
SHALL NOT WITHHOLD ITS CONSENT BUT IT SHOULD BE PHRASED
"MAY NOT WITHHOLD ITS CONSENT." KENYA STATED MEXICAN
PROPOSAL WAS A LITTLE BUT TOO STRONG. ECUADOR PROPOSED
COASTAL STATES ESTABLISH STANDARDS TO GUARANTEE THAT
CONSENT NOT BE DELAYED OR UNREASONABLY DENIED.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, COMMITTEE MEETINGS, NEGOTIATIONS, TWO HUNDRED MILE LIMIT, ADJACENT SEAS, OCEANOGRAPHIC RESEARCH
Control Number: n/a
Copy: SINGLE
Draft Date: 17 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: saccheem
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976USUNN03273
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760315-1284
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760844/aaaabmnq.tel
Line Count: 164
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION DLOS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: saccheem
Review Comment: n/a
Review Content Flags:
Review Date: 12 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <12 MAY 2004 by buchant0>; APPROVED <14 SEP 2004 by saccheem>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: LOS: MARINE SCIENTIFIC RESEARCH YANKOV CONSULTATIONS
TAGS: PLOS, LOS
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006